



# NAPS Consultative Meeting Agenda Items Held July 12, 2017 at USPS HQ

## USPS Headquarters

Bruce Nicholson, USPS Labor Relations  
Phong Quang, USPS Labor Relations

## National Association of Postal Supervisors

Ivan Butts, NAPS Executive VP  
Chuck Mulidore, NAPS Sec-Treasurer  
Tim Ford, NAPS Chairman of the Board (via telecon)

0717-01. NAPS has been forwarded an issue in the Harrisburg district. Local NAPS leadership has been informed that "EAS Level 17 does not qualify for personal leave".

NAPS notes that the Eastern Area VP has been included in this policy determination.

NAPS contentions are as follows;

- The directives for charging leave are outlined in ELM 512.511, which state;

512.511 Minimum Unit Charge

Minimum unit charges for full-time employees are as follows:

Employee Category	Minimum Unit Charge
All full-time nonexempt employees.	One-hundredth of an hour (0.01 hour).
Full-time exempt.	(See <a href="#">519.7</a> .)

- The policy and procedures of ELM 519.7 address Non-Bargaining Unit Personal Absence. This policy states;

- 519.72 Policy

Nonbargaining unit exempt employees are paid on a salary basis. This means that under the FLSA they are not considered to be hourly rate employees. Therefore, partial day absences are paid the same as work time. While exempt employees are expected to work a full day, they may request time off to attend to personal matters during the workday, including time off due to conditions covered by FMLA. If approved, the time off is "personal absence time" and is not charged to annual leave, sick leave, or LWOP.

- ELM 519.732 lists the guidelines for Nonbargaining Unit Partial-Day Absences. This provisions states;

- 519.732 Partial–Day Absences

Normally, personal absence time is limited to no more than half an employee’s workday. However, when an unanticipated need for time off occurs after the employee reports to work and the employee is allowed to leave work but is unable to return, the half–day limit does not apply. For example, when an employee gets sick after 2 hours at work and must leave for the remaining 6 hours of the workday, the entire 6 hours is treated as personal absence time.

However, a manager may disapprove personal leave requests when necessary to carry out their responsibilities to control work hours as set forth in 519.75. In this regard, managers may require the use of an appropriate leave category, for example, sick leave in the case of partial–day absences for FMLA–covered conditions.

There is a long history of EAS-17 being afforded the rights found under ELM 519.7. NAPS is requesting that USPS HQ Labor engages the Eastern Area leadership and Harrisburg district leadership on providing fair and equitable treatment to EAS-17 per the policies and procedures of the USPS. NAPS also requests that the leadership position that NAPS has documented is in violation of USPS policies and procedures be rescinded.

**Response:** NAPS claims that the Eastern Area VP was included in this policy determination; however, being copied on an email does not constitute concurrence. If local NAPS leadership is not satisfied with the response provided, then it should be discussed with the Central PA District.

**NAPS response:** NAPS does not claim that the Eastern AVP being copied on the policy constitutes concurrence. NAPS states that the lack of response from the Eastern AVP to the policy that is in violation of the ELM is consent to the violation. NAPS HQ assumed the leadership role of contacting USPS Eastern Area leadership to resolve this issue. This issue was resolved in that manner.

0717-02

NAPS has received information that NAPS representatives are not being allowed to provide representation to members in Pre-Disciplinary Interviews (PDI) and Investigative Interviews (II) while on the clock.

The provision of ELM 651.2 states with ***emphasis added***;

- 651.2 Representation

Subject to prohibitions regarding Executive and Administrative Schedule (EAS)/Craft representation, employees have free choice of representation. ***Representatives designated by employees, if postal employees and if otherwise in a duty status, are granted a reasonable amount of official time*** to respond to notices of proposed

disciplinary action, to prepare for and represent the employee at a hearing held in accordance with 652.24, and/or to represent an employee who has appealed a letter of warning or emergency placement in a nonduty status in accordance with 652.4. Employees covered under these provisions may request representation during investigative questioning if the employee has a reasonable belief disciplinary action may ensue.

NAPS contends that this policy is clear and unambiguous of the fair and equitable treatment that is to be afforded NAPS representatives. NAPS is requesting that the USPS reiterate the provisions of 651.2 and indicating that EAS are represented "on the clock" in all levels of disciplinary actions.

**Response:** The Postal Service does not believe that this is a national issue and NAPS needs to make a concerted effort to resolve this issue through the appropriate District and Area. NAPS' request for reiteration of the ELM 651.2 provision would only confuse employees since the policy has been in place for decades and has remained unchanged.

Representatives can be granted official time during their normal work hours to represent an employee during a PDI or Investigative Interview in accordance with ELM 651.2, *Representation*. Managers should make an effort to accommodate representatives in these situations, however that manager and the representative have an obligation to ensure that postal operations are not ignored nor neglected. Attendance during a PDI or II does not excuse a representative from the completion of the duties and responsibilities of their job. If NAPS's representatives believe that they are repeatedly not being approved to represent individuals during a PDI or II during normal work hours, then this should be discussed with the representative's manager and district, if appropriate.

**NAPS response:** NAPS did not state that this was a national issue ... NAPS requested that the USPS reiterate the provisions of ELM 651.2 indicating that EAS are represented "on the clock," as this is an issue that is starting to arise in different locations around the country.

0717-03

NAPS has been made aware of two settlements from the Eastern Area. The grievances involved alleged violence in the workplace and were settled at Step 3 by an Eastern Area labor representative. The settlement resulted in the supervisor being removed from her home office for six months.

NAPS contends that the supervisor never received her due process as outlined in the letter Doug Tulino sent out in December.

Also, NAPS has requested copies of the grievances originally from Northern OH and to date have only received a copy of the settlement, not the entire grievance package. This request for information was also made to the Eastern Area and to date the grievance package has not been received.

NAPS is requesting that the standards of due process found in Memorandum issued by Doug Tulino, Sr. VP, Labor Relations be reiterated and adhered to by all managers that represent USPS on labor issues.

NAPS also requests that the standard for providing information based on valid Request for Information submitted by Management Association Representative be provided following Postal policy and FOIA Law.

**Response:** Grievances of individual employees shall not be matters which may be included as agenda items.

**NAPS Response:** The issue was not the individual grievances. The issue was the non-adherence to the Doug Tulino due process memo. The USPS response was these actions occurred prior to the memo being issued by Doug Tulino.

0717-04

NAPS has been made aware of a mandate for EAS in the Northwest Area of NAPS having to complete Individual Development Plans (IDP's) if current NPA scores have them in Cell Block 3.

NAPS contends that the IDP process should not have been used as punishment for an EAS not achieving what NAPS has noted at the beginning of FY17 as NPA targets that were questionable, unobtainable and in some case in violation of federal standards.

NAPS is requesting that USPS HQ leadership issue directive that no USPS leadership may mandate EAS to complete IDP's due to NPA scores.

**Response:** NAPS states that this matter is occurring in the "Northwest Area of NAPS." This matter should be discussed with the manager that issued this mandate and escalated to the district office, if necessary.

**NAPS response:** NAPS stated that the IDP was being used as a punitive tool by leadership and that the problems in the FY17 NPA process were well documented at the beginning of FY17 by NAPS HQ.

0717-05

With the issuance of cell phones to EAS, NAPS has been made aware of the mandates that Managers respond to email and maintain their offices after hours and during periods of leave.

NAPS would like to receive a briefing on the policies and procedures that are to be followed for EAS issued cell phones.

NAPS also request that when EAS with cell phones are required to respond to work activities that these on-call employees be compensated with workhours following guidance found in § 551.431 Time spent on standby duty or in an on-call status.

(a)

(1) An employee is on duty, and time spent on standby duty is hours of work if, for work-related reasons, the employee is restricted by official order to a

designated post of duty and is assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for his or her own purposes. A finding that an employee's activities are substantially limited may not be based on the fact that an employee is subject to restrictions necessary to ensure that the employee will be able to perform his or her duties and responsibilities, such as restrictions on alcohol consumption or use of certain medications.

(2) An employee is not considered restricted for "work-related reasons" if, for example, the employee remains at the post of duty voluntarily, or if the restriction is a natural result of geographic isolation or the fact that the employee resides on the agency's premises. For example, in the case of an employee assigned to work in a remote wildland area or on a ship, the fact that the employee has limited mobility when relieved from duty would not be a basis for finding that the employee is restricted for work-related reasons.

**Response:** The issuance of smartphones to EAS Exempt employees is nothing new. The only recent change this year was to include EAS-18 Exempt Postmasters among the list of positions eligible for smartphones. The Postal Service intends to expand the use of mobile devices to assist EAS in making informed business decisions faster rather than using a desktop computer to review multiple systems and make a decision. NAPS was advised of this initiative on June 26 and has requested a briefing on it.

Managers are responsible for all activities of the facility under their authority and may be required to respond to inquiries or make decisions related to the operations of their office on an intermittent basis outside of the normal work day. The Postal Service disagrees with NAPS's statement that these employees are on-call and should be compensated for work hours due to limited situations where an exempt employee is contacted by phone or email.

Of course, it's unreasonable to expect an exempt employee to take phone calls and respond immediately to emails 24 hours a day, 7 days a week. If NAPS deems that any local requirement placed upon a manager after normal duty hours is unreasonable, then NAPS should discuss it with the authority that issued the mandate and escalate to the district or area, if necessary.

1016-08

This is a long-standing agenda item that NAPS is requesting a briefing on to determine what are the obstacles that are impeding the creation of justified and needed PIQA position.

**Response:** The status of the request from the Salt Lake City District for an EAS-17 Product Information Quality Analyst (PIQA) remains the same as we responded back in October 2016. "This matter is still under consideration at headquarters."

The PIQA job was established in 2012 and not every District, including Salt Lake City was authorized this job.

Additionally, as NAPS is aware, the Postal Service is currently conducting studies and an evaluation of all district jobs, to include AMS. It is unlikely that any new positions will be added during these studies.